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MONTANA LEGISLATIVE HISTORY

Chapter 139 1991

Bill H _____ S 120 Original bill & history ____C

H. Committee on Education and Cultural (Resources)			S. Committee on Education and Cultural (Resources)		
Hearing Date(s)	Mar 08	✓ C	Hearing Date(s)	Jan 25	✓ C
	Mar 12	✓ C		Feb 08	✓ C
		____C			____C
		____C			____C
Date Out	Mar 14	✓ C		Feb 12	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

LIQUEFIED PETROLEUM GAS DELIVERIES

1/17	INTRODUCED		
1/17	REFERRED TO TAXATION		
1/17	FIRST READING		
1/24	HEARING		
1/31	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/02	2ND READING PASSED	43	3
2/04	3RD READING PASSED	47	2
	TRANSMITTED TO HOUSE		
2/05	FIRST READING		
2/05	REFERRED TO TAXATION		
2/20	HEARING		
3/05	COMMITTEE REPORT—BILL CONCURRED		
3/09	2ND READING CONCURRED	90	2
3/11	3RD READING CONCURRED	96	3
	RETURNED TO SENATE		
3/14	SIGNED BY PRESIDENT		
3/15	SIGNED BY SPEAKER		
3/15	TRANSMITTED TO GOVERNOR		
3/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 94	EFFECTIVE DATE: 10/01/91	

SB 120 INTRODUCED BY B. BROWN, ET AL.

CLARIFY PROVISIONS FOR TERMINATION OF A NONTENTURE TEACHER

1/17	INTRODUCED		
1/17	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/17	FIRST READING		
1/25	HEARING		
2/12	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED AS AMENDED	40	8
2/14	3RD READING PASSED	40	10
	TRANSMITTED TO HOUSE		
2/15	FIRST READING		
2/15	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/08	HEARING		
3/14	COMMITTEE REPORT—BILL CONCURRED		
3/16	2ND READING CONCURRED	70	22
3/18	3RD READING CONCURRED	71	27
	RETURNED TO SENATE		
3/23	SIGNED BY PRESIDENT		
3/23	SIGNED BY SPEAKER		
3/25	TRANSMITTED TO GOVERNOR		
4/01	RETURNED TO SENATE WITH GOVERNOR'S AMENDMENTS		
4/04	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	49	0
4/05	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	49	1
	TRANSMITTED TO HOUSE		
4/08	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	90	2
4/09	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	96	2
	RETURNED TO SENATE		
4/13	SIGNED BY PRESIDENT		
4/15	SIGNED BY SPEAKER		
4/15	TRANSMITTED TO GOVERNOR		
4/17	SIGNED BY GOVERNOR		

Closing by sponsor:

Senator Pipinich closed. He said officers do not carry weapons in the daytime in the cars. He said the weapons are in their lockers locked up at all times during the daytime. He urged support of the bill.

HEARING ON SENATE BILL 120

Presentation and Opening Statement by Sponsor:

Senator Bob Brown, sponsor, said the bill would require trustees of a school district to provide nontenure teachers with a true statement of reasons for termination and to provide a nontenure teacher with a hearing if there is reason to believe that trustees have abused their discretion. He said this bill is an attempt to make clear what was passed by the legislature about 15 years ago and has been characterized as the instant tenure bill.

Proponents' Testimony:

Phil Campbell, Montana Education Association, stated his support of the bill in that the reasons given to a nontenure teacher for termination are true and that there be some method for having the decision reviewed. He distributed a ruling by the Montana Supreme Court setting rights for nontenure teachers. (See Exhibit 7) He referred to various cases before the Supreme Court with the Court's decisions. (See attachment to Exhibit 7) He presented to the committee a copy of House Bill 384 introduced in the 1975 session and committee minutes related to that bill. (See Exhibit 8) He said SB 120 is not an instant tenure bill, and the burden of proof is on the teachers and not the school districts.

Beda Lovitt, Office of Public Instruction, stated Superintendent Keenan's support of the bill and the motivation behind the bill as a just cause and fair amendment that would allow nontenure teachers a semblance of security and rights.

Terry Minow, representing Montana Federation of Teachers, stated her strong support of the bill and said they would submit written testimony later.

Opponents' Testimony:

Bruce Moerer, representing Montana School Boards Association, stated his opposition to the bill in that it does away with the probationary period. He stated this bill does not provide an automatic hearing for a teacher like the normal teacher termination hearing that is required. With this bill, termination is accomplished first and then teacher has right to

appeal and challenge whether or not board abused its discretion. He said for all practical purposes, this bill amounts to instant tenure.

Chip Erdmann, Montana Rural Education Association, in stating his opposition said the bill effectively removes the probationary period. He feels this bill would cause significant changes in the way the system works and would remove the probationary system for teachers.

Dennis Craft, president of School Administrators of Montana, stated his opposition of the bill in doing away with the probationary period.

Questions From Committee Members:

Senator Pinsoneault questioned items desired in the statutes for reasons for termination and questioned if those are things we want to get involved in. Ms. Lovitt said the local trustee boards have the right to set the standards for the kind of teachers they desire in their schools. She said the board of trustees has the sole discretion in hiring and firing and discretion to set the standards for the teacher. If the teacher doesn't live up to the standards, there would not be an automatic appeal. Senator Farrell questioned if the school districts had a standard, isn't the signing of a temporary paper saying it is a one year temporary job a standard. Ms. Lovitt said she would not term that a standard. Ms. Lovitt said regarding abusive discretion, the teacher would have to make a clear showing that the board failed to render an honest and fair judgment based on available facts.

Closing by Sponsor:

Senator Brown said in closing that the discretion to fire remains entirely with the board of trustees whether this legislation passes or not; that would not be affected. He said this bill attempts to restore the intended meaning to the statute.

ADJOURNMENT

Adjournment At: 3:00 p.m.

Chet Blaylock

CHET BLAYLOCK, Chairman

DATE 11/25/91

rate COMMITTEE ON Education

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
[illegible]	Twinbrook School			X
Wojtoski	Geyer School			
Klein	CLANCY SCHOOLS			
[illegible]	Belgrade Schools			
[illegible]	Yellowstone Educ Center	120		X
[illegible]	Rep. HD 59	117	X	
[illegible]	MBCC		X	
[illegible]	SAM-	120		X
[illegible]	Lewis & Clark School Dist	120		X
[illegible]	Gt Falls School Dist	120		X
JOHN MOHR	Joliet School Dist	120		X
[illegible]	JOLIET School Dist	120		X
[illegible]	Valier	120		X
[illegible]	Bone Rock #13	120		X
[illegible]	Belgrade #44	120		X
[illegible]	Livingston Schools	120		X
[illegible]	Great Falls SD 1 H	120		X
[illegible]	Joliet School Dist.	120		X
[illegible]	Vaughn SD #74	120		X
Tony Wade	Butte High School	120		X
[illegible]	Dawson Co High Schools	120		X
[illegible]	MSBA	120		X
Bruce D. Moore	MSBA	120		X
Phil Campbell	MEA	120	X	

DATE 1/25/91

Senate COMMITTEE ON Education

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
Doug Chase	Missoula Co Sheriff Office Arming of U. of M Officers	117	✓	
Jim OBERHOFER	Missoula Police Dept	117	✓	
LT VANDERVERF	SELF	117	✓	
Chip ERDMANN	MT Rural Ed Assoc	120	✓	X
Linda Stearns	Univ of Mt	117	✓	
ARK Piquette	MSU	117	✓	
Ken Heifes	EMC	117	✓	
[illegible] Adams	MPEA	117	✓	
FRITZ BEHR	Gov's. OFC.	117	✓	
Senator Bob Hawkins		117	✓	
Jerry Schramm	Mt. Univ. System	117	✓	
Carla Gatewood	UofM Police	117	✓	
Don Stolz	UM Campus Services	117	✓	
Ron Willett	Dept of Campus Safety (UM)	117	✓	
Patrick McClung	ASUM	117	✓	
[illegible]	Florence-Carlton	120		✓
Steve Gramb	Charlo School #7	120		✓
Bud Veis	Polson Schools	120		✓
John Dolan	ASMSU	117	✓	✓
Don Halgren	Ronan SD #30	120		✓
D. Dale Hartt	OPI	120	✓	
Lori Bays	MSBA	150		
Dave Puccia	MSBA	150		
Jeide Brighty	Montana College Coalition	117	✓	
Gregory S. Fink	MSBA	120		✓
[illegible]	ASMSU	117	✓	

vote. He asked for voting to be held until he had an opportunity to call to call superintendents in his district.

Chairman Blaylock granted that permission. The committee agreed to take up SB 82 on Monday, February 11.

EXECUTIVE ACTION ON SB 120

Discussion:

Senator Pinsoneault said that he had put together amendments on SB 120 which make major changes in SB 120 both judicially and procedurally. He said that Chip Erdman and Bruce Moerer had a chance to look at it and he asked them to comment on their perception of the amendments.

Bruce Moerer said that the way they viewed Senator Pinsoneault's amendments, he kept the heart of SB 120 in the last section but then he went ahead and addressed what we saw to be a separate problem and that was the actual procedures of how we could progress through the appeals level and this would take it to the county superintendent directly into district court.

Mr. Moerer said that his association (MSBA) had not had an opportunity to review these amendments but that it was his opinion that in appearing before county superintendents and going through this process numerous times, the problem isn't necessarily at the state level. The real difficulty he said is the county level (he emphasized that he was not saying anything derogatory about county superintendents) but said that they have been placed in a situation now where they are actually sitting as judges, the rules of evidence apply, they have two attorneys arguing legal cases to them, and it is more complex than they are equipped to handle. These are difficult situations for them. He suggested talking to rest of the educational community over the interim and try to come up with a solution that actually takes away the contested case hearing responsibilities from county superintendents. He suggested positions of one or two hearings officers at OPI, make them like all other state-wide agencies, and train them in education and in law to hear all of the cases from across the state and they would then make a recommended opinion to the state superintendent and once that was adopted or not adopted, the appeal could then go on to district court. That would speed up the process. He said that was his suggestion to Senator Pinsoneault.

Chip Erdman said while they appreciated Senator Pinsoneault's efforts, their concerns is that there is a county superintendent hearing in the proposed amendments which is the essence of their objections to SB 120. They didn't think it would solve any problem. There may be a technical problem in that the amendments would go beyond the scope or the intent of the original bill. He

said that he thought addressed all appeals instead of just appeals of non-tenure period. He felt the amendments offered by Senator Pinsoneault would not solve their problem with the bill.

Senator Pinsoneault said that he didn't care where the administrative review takes place; i.e., OPI, superintendents or county level--that is a question that should be addressed. he said that he was glad that he had brought it to the committee's attention. He said that he thought that suggestions that Chip Erdman had made were valuable and a process that should work. He thanked the committee, Bruce Moerer and Chip Erdman for their attention to the matter. At that time Senator Pinsoneault withdrew his motion.

Senator Brown thanked Senator Pinsoneault for the time and effort he spent in preparing amendments to SB 120.

Senator Brown said that this bill just makes it clear that all the non-tenure teacher is entitled to in the law is a reason for dismissal that has some kind of a basis in fact. The way the courts are ruling now, the statutes are still on the books that say that teachers are entitled to a reason but the reasons don't have to be true. He said that with this bill, we want to make it clear that there isn't any effort to give tenure protection to these people but there ought to be some basis for truth and the reason that they are given. During the committee hearing when we heard this bill, there was some mention made; for example, of a music teacher who was dismissed because people didn't like her choice of music. He said that while that might be reason enough for a non-tenured teacher, it could be a matter of opinion but he said that if something is fallacious on the surface, that shouldn't be a reason. He said that the amendments to SB 120 attempts to make that distinction. The burden would be on the teacher to prove that the reason for dismissal was not true and most of the time it would not be worth the teacher's time to try to prove it unless it wasn't true.

Senator Pinsoneault said that he wished to say that he felt that the committee had really "dumped" on the teacher. He said that he felt that the bill was confusing and unfair to the teacher. I think that there should be requirements that a written evaluation be made and state the reasons for dismissal for non re-election. He said that he was not criticizing the effort but he didn't see that it was doing much for the teacher with whom he wasmost concerned.

Senator Brown said that the effort was made as a compromise from the viewpoint of the teacher.

Senator Blaylock called upon Bata Lovitt, Attorney for OPI, to comment on the amendment made by Senator Brown. Senator Blaylock asked her if she thought that this takes everything away from the teacher. In discussion, she said that she felt that it was an accurate and reasonable to place burden of proof on the

teacher.

Senator Brown pointed out that this bill is trying to make it clear that they are not talking about tenured teachers but rather non-tenured teachers.

Bruce Moerer said that you talk about insufficient evidence in the amendments. He said that OPI looks at tenure as a property right entitled to due process of the right appeal and the right to a hearing. That gets us back into the same type of problem of getting trained hearing officers that can understand the distinction between abuse and discretion and the process for giving the reasons for nontenure in the hearing versus what tenure really is. He said that he thought it would be very difficult for people to distinguish between these two concepts. He referred to Senator Farrell's question (during the hearing) and that was how to explain to a layman what the difference is between the two concepts of abuse and discretion.

Chip Erdman said that he would like to point out that Senator Brown's amendment may well create a higher burden on the teacher in Subsection C but it is in the alternatives there and the teacher can choose to go under A or B which is just a showing that they disregarded some evidence or that there was insufficient evidence and that again gets us back to the just cause standard and they could ignore C. He felt that the amendments didn't do much from their standpoint.

Phil Campbell said that it was not their intent, and never has been, to give to non-tenured teachers a just cause standard. He said that they would like to but knew it wasn't going to happen. He said that it was their intent to change that language to say that there must be a basis in fact when the reason is given. It doesn't have to be justifiable for actions but it has to have some basis upon which to base the reason. He said that he would like to suggest to the committee that with a review process of any kind, be in a statute or a contract, it makes the decision maker a better decision maker because he knows his decision is going to be reviewed.

Senator Brown and Senator Farrell proposed amendments to SB 120 which are combined into Amendment No. SB012001. On Senator Brown's proposal, there were seven aye; one no. (Senator Pinsoneault). Senator Farrell moved to strike Section 3; Subsection 2; #A and #B leaving #C as written. The vote was unanimous. Amendments adopted.

Recommendation and Vote:

SENATOR BROWN MOVED to propose Amendments No. SB013002.aem to SB 120. Seven voted aye; one no. (Senator Pinsoneault). MOTION CARRIED.

SENATOR FARRELL MOVED to strike in Section 3; Subsection 2; A and B leaving C as written. The vote was unanimous. Amendments adopted. MOTION CARRIED.

SENATOR BROWN MOVED that SB 120 DO PASS as amended. Five voted aye; Three voted no. (Pinsoneault and Hammond voted no. Senator Nathe who was absent had left a vote of no.) MOTION CARRIED.

Senator Blaylock requested that the Senate Standing Committee Report on SB 120 be held until Senator Fritz (who was absent) could have an opportunity to vote. Senator Fritz voted aye on SB 120 as amended on Monday, February 11, 1991.

ADJOURNMENT

Adjournment At: 4:50 P. M.

Chet Blaylock
SENATOR CHET BLAYLOCK, Chairman

Betsy Clark
BETSY CLARK, Secretary

CB/bc

SENATE STANDING COMMITTEE REPORT

February 12, 1991

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 120 (first reading copy -- white), respectfully report that Senate Bill No. 120 be amended and as so amended do pass:

1. Page 4, line 21 through 24.
Following: line 20
Strike: line 21 through "(c)" on line 24
Insert: "(a)"

2. Page 4, line 25.
Following: line 24
Strike: line 25 through "evidence"
Insert: "lacks any basic in fact"

3. Page 5, line 1.
Strike: "(d)"
Insert: "(b)"

4. Page 5, line 12.
Following: "teacher."
Insert: "The burden of proof rests with the teacher to show an abuse of discretion."

Signed: Chet Blaylock
Chet Blaylock, Chairman

SB 2/6/91
Amd. Coord.

SR 2/6 10:15
Sec. of Senate

unforeseen emergencies. He said REP. DON LARSON would carry the bill in the House.

EXECUTIVE ACTION ON SB 179

Motion/Vote: REP. BENEDICT moved SB 179 BE CONCURRED IN AND BE PLACED ON CONSENT CALENDAR. Motion CARRIED unanimously.

EXECUTIVE ACTION ON SB 180

Motion: REP. BENEDICT moved SB 180 BE CONCURRED IN AND BE PLACED ON CONSENT CALENDAR. Motion CARRIED unanimously.

EXECUTIVE ACTION ON SB 141

Motion: REP. STANG moved SB 141 BE CONCURRED IN. Motion CARRIED unanimously.

HEARING ON SB 120

Presentation and Opening Statement by Sponsor:

SENATOR BOB BROWN, Senate District 2, Whitefish, said SB 120 provides non-tenured teachers with a true statement of employment related reasons for termination and also provides for a hearing if there is reason to believe the trustees had abused their discretion in the process of termination. In 1975 the Legislature passed a bill that went in as 24-206 of the Montana Code stating a non-tenured teacher had the right to request and receive from the school board a written statement of reason for termination. The teacher would know what improvements to make in order to get another job and a future school district would have a definite statement of why the teacher was released.
SEN. BROWN said if a non-tenured teacher has reason to believe an abuse of discretion has occurred, he/she can request a hearing before the county school superintendent. The hearing must be scheduled within ten days and held within thirty days. The burden of proof rests with the teacher to prove abuse of discretion has occurred. This is not instant tenure! Tenure requires the school board or administration to prove the teacher is guilty and is a very tedious process. This bill says if a board rules plainly in error the burden is on the teacher to prove, which is a very far cry from tenure.

Proponents' Testimony:

Phil Campbell, Montana Education Association, (MEA), presented EXHIBIT 1. In 1973 a law was enacted that provided non-tenured teachers with a notice. In 1975 non-tenured teachers had to be given a reason. Ever since, there has been difficulty when districts give the reason, "we can get a better teacher". That reason was challenged in the Supreme Court with the court ruling that is a non-reason. The reason had to be job related and state the undesirable qualities meriting a refusal to enter into a contract. This bill provides that the statement must be true and

have a basis in fact. It must be a true statement! This is a fairness issue, not an instant tenure bill. People have the right to know why they aren't being re-hired.

Jack Copps, Deputy Superintendent of Public Instruction, said for some reason educators can't agree how to treat other educators. There are good and bad teachers as well as good and bad administrators. There are also good and bad trustees. A system to protect the good people, that clearly allows a way to get rid of those who do not belong in the profession, needs to be implemented for the benefit of all Montana students. There has to be some arena in which to challenge abuse of discretion. It is the opinion of the Office of Public Instruction that challenge would be heard first at the county superintendent level, with appellate opportunities to the state office and then on to district court.

John Malee, Montana Federation of Teachers, (MFT), said SB 120 does not provide instant tenure or just cause. While other employees are entitled to just cause after a probationary period of usually six months, non-tenured teachers spend three years in limbo. This is a fairness issue, and if a teacher is not meeting district standards an evaluation should reflect the discrepancies. Under this bill performance evaluation of non-tenured teachers will become a productive method of pointing out deficiencies and suggesting methods of improvement. This bill will improve the quality of education in Montana schools and leaves the burden of proof on the non-tenured teacher, which is a far cry from the requirements for termination of tenured teachers.

Don Lang, Great Falls Education Association, said if the administrative process is done correctly in the first three years hopefully teachers that are not there in the best interest of education would be weeded out. If the process was done fairly, honestly and openly we wouldn't have this situation arising in the first place.

Kathy Carlson, Billings Education Association, said after her second year of teaching she was informed she would not be rehired because the district could find a better teacher. The superintendent did not evaluate or even observe her the entire second year of her teaching. She is still not sure how he came to that conclusion. If the administrator had given specific reason for dismissal she could have focussed on improving those areas and on becoming a better teacher. Fortunately, ten years of successful teaching has helped to heal the wounds received from that experience. This bill says an administrator must be honest. If a school district is truly interested in good education that district will be eager to fairly evaluate teachers. That's good management and it benefits all of education, especially teachers who take seriously the task of improving their professional skills.

Ira Gresen, Forsyth Education Association, said his district has been following procedure already in line with SB 120. The district superintendent and building principal said they see no problem with this legislation.

Opponents' Testimony:

Bob Anderson, Montana School Boards Association, (MSBA), said this is a perennial bill that is consistently distasteful. The myth about truth and honesty is offensive since it points the finger directly at elected trustees saying they are dishonest, untruthful, deceitful and out to nail teachers who should be in the school system. Trustees make errors from time to time but try their hardest to do the best job possible. **Mr. Anderson** then presented written testimony citing reasons the MSBA opposes SB 120. EXHIBIT 2

Chip Erdmann, Montana Rural Education Association, said current law views tenured and non-tenured teachers exactly the same when under contract. The only difference in standard is upon contract renewal. All lines of work have a probationary period. A teacher's probationary period is 27 months because teachers work in blocks of nine months at a time. After that period a final decision is made to determine if they fit the profession. Passage of SB 120 will change that probationary status and make it a probationary period with a hearing. Before moving these people into this area with a great deal of statutory protection, the school district deserves the three year period in order to review and evaluate. If local school districts disagree with this philosophy, they are perfectly entitled to include a just cause provision within contracts for non-tenured teachers. Hearings are expensive and going before the county superintendent is just like court with rules of evidence and lawyers present. It will be a financial decision to a certain degree whether the district will fight the challenge. Some districts may throw in the towel for financial reasons when they should go ahead and support their reasons. As a result, some teachers may achieve tenure that in fact should not.

Don Klepper, Director of Personnel, School District 1, Missoula, presented written testimony. EXHIBIT 3

Ernie Jean, Superintendent, Florence-Charlton, presented written testimony. EXHIBIT 4

Loran Frazier, School Administrators of Montana, (SAM), said SB 120 sets up the problem of excessive hearings and cost since there are lawyers on both sides. Money spent on legal fees should be going to students, teachers and educational programs.

Questions From Committee Members:

REP. HANSON asked **SEN. BROWN** if moral fitness, incompetence and violation of adopted board policy should be included in the bill.

SEN. BROWN said yes, it would strengthen the bill.

REP. CLARK asked Phil Campbell if he agreed that honesty and truthfulness is a two way street? Mr. Campbell said yes. REP. CLARK then asked if he would support an amendment in the interest of potential employers, to prohibit teachers from removing negative information from their transcripts. Mr. Campbell answered if the information is not true it ought not be there but is unfamiliar with the practice of allowing teachers to remove detrimental comments from transcripts. There is no law stating they can remove this information unless there is an agreement at the local level.

REP. STANG asked Phil Campbell how districts, who no longer have county superintendents, will pay for the hearings when the county superintendent must be contracted with and may be several miles away. Phil Campbell said this is the same situation that applies currently except, obviously, there is greater potential for more hearings with the passage of this legislation. REP. STANG said General Fund money should be going to the kids and not to litigation. Perhaps a sunset clause should be included so if extremely high expense is incurred the Legislature could automatically review in two years. Mr. Campbell said there have been very few cases of hearings and the potential of litigation getting out of hand is just not there. If there are a great many unforeseen problems the folks can come back in two years and change the situation. REP. STANG asked if Mr. Campbell would object to changing the effective date to either July 1 or October 1 to aid districts in their budgeting process. Mr. Campbell said he would prefer to keep SB 120 in tact, as is.

REP. ELLIS asked Chip Erdmann if a teacher has full right to contest dismissal for lack of discipline since that is a judgement call. Chip Erdmann said yes. REP. ELLIS asked if that ruling was against the teacher could he/she appeal higher. Mr. Erdmann said yes, the teacher could appeal to the county superintendent, state superintendent, district court and then supreme court if it went that far. REP. ELLIS asked how this process differs from current protection for tenure. Mr. Erdmann said the sequence and procedure is not different. REP. ELLIS then asked if an administrator documented improper discipline and approached a teacher over a period of time if that would be a justifiable reason for dismissal. Mr. Erdmann said yes, although mediation steps would come into play. REP. ELLIS asked if the major difference between this and tenured teachers is the obligation of mediation. Mr. Erdmann replied that would probably be the biggest difference under this bill.

CHAIRMAN SCHYE asked Chip Erdmann if he was aware of any school district giving a non-tenured teacher a sabbatical. Mr. Erdmann answered no.

REP. HARRINGTON asked Chip Erdmann if basically this bill changes the 1975 law and simply states if a non-tenured teacher is not

rehired and the district does not give that teacher a truthful reason for non-renewal, that teacher has the right to question the dismissal and have a hearing. **Mr. Erdmann** said yes, the bottom line of this bill is it gives teachers the right to that hearing.

REP. BERGSAGEL asked **Phil Campbell** how many non-tenured teachers are not renewed each year. **Mr. Campbell** answered he had no idea.

REP. DAVIS asked **SEN. BROWN** who determines if something lacks a basis of fact and who determines what is a true statement. **SEN. BROWN** said the teacher would have to conclusively prove beyond a reasonable doubt to the county school superintendent that the reason was either wrong, a misstatement of fact, or a falsehood. **REP. DAVIS** asked where might a non-tenured teacher find those statements in writing. **SEN. BROWN** answered these statements would most likely be found on an evaluation sheet in the teacher's file.

Closing by Sponsor:

SEN. BROWN said there is confusion concerning dismissal and termination. When a teacher has tenure on their fourth contract they are automatically renewed from that contract on. A non-tenured teacher isn't presumed to be renewed so no reason has to be given for non-renewal. This bill states after the end of the first, second, or third contract if the teacher who is not going to be renewed asks for a reason in writing and is given a reason that on the surface is not true, then that teacher has the right to prove that is the case. The teacher must be able to show conclusively the reason was incorrect. The burden of proof is important. Concerning the cost of litigation, the opponents fifteen years ago made the same argument. There hasn't been any big flood of litigation between 1975 when the bill passed, and 1990 when the interpretation of it changed.

Yes, most school districts do comply and play fair. This bill would assure that they do. Give the teacher someplace to go in those few cases where they do play less than fair. Lets give real reasons and give them an arbitrator to make sure the reasons are real.

EXECUTIVE ACTION ON SB 88

Motion: **REP. BENEDICT** made the motion that SB 88 BE CONCURRED IN. Motion CARRIED unanimously.

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL DATE 3-8-91

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. FLOYD "BOB" GERVAIS	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

CS05ED.MAN

EXHIBIT #1
DATE 3-8-91
SB 120

tion. When a hearing is requested, the trustees shall conduct such a hearing and reconsider their termination action within ten (10) days after the receipt of the request for a hearing. If the trustees affirm their decision to terminate the teacher's employment, the tenure teacher may appeal their decision to the county superintendent who may appoint a qualified attorney at law as a legal adviser who shall assist the superintendent in preparing findings of fact and conclusions of law. Subsequently, either the teacher or the trustees may appeal to the superintendent of public instruction under the provision for the appeal of controversies in this title.

History: En. 75-6104 by Sec. 85, Ch. 5, L. 1971; amd. Sec. 1, Ch. 157, L. 1974; amd. Sec. 2, Ch. 306, L. 1974.

Compiler's Notes

This section was amended twice in 1974, once by Ch. 157 and once by Ch. 218. Neither amendatory act mentioned or incorporated the changes made by the other. Since the amendments do not appear to conflict, the compiler has made a composite section embodying the changes made by both amendments.

Amendments

Chapter 157, Laws of 1974, inserted "by registered letter or by personal notification for which a signed receipt returned" after "in writing" in the first sentence and inserted the second sentence.

Chapter 306, Laws of 1974, inserted the provision for appointment of an attorney by the county superintendent in the next to last sentence and made a minor change in punctuation.

DECISIONS UNDER FORMER LAW

Notice of Dismissal

Certified letter from chairman of school board to tenure teacher which informed teacher that termination of her services was deemed necessary due to a drop in enrollment of her class was legally sufficient as a notice; this section does not require that the notice contain a statement of appeal procedure. Schweigert v. Board of Trustees of Evergreen School Dist. No. 50, — M —, 515 P 2d 85.

Teacher's Petition for Reconsideration of Termination

Teacher who failed to file petition for a formal hearing to reconsider termination until more than forty-five days after receiving notice of termination failed to file request in a timely manner and the right to a hearing under this section had expired; fact that board reaffirmed its decision forty days after receipt of original notification did not revive expired rights. Schweigert v. Board of Trustees of Evergreen School Dist. No. 50, — M —, 515 P 2d 85.

75-6105.1. Notification of nontenure teacher re-election. The trustees shall provide written notice to all nontenure teachers who have been re-elected by the first day of April. Any nontenure teacher who does not receive notice of re-election or termination shall be automatically re-elected for the ensuing school fiscal year. Any nontenure teacher who receives notification of his re-election for the ensuing school fiscal year shall provide the trustees with his written acceptance of the conditions of such re-election within twenty (20) days after the receipt of the notice of re-election. Failure to so notify the trustees within twenty (20) days may be considered nonacceptance of the tendered position. The provisions of this section shall not apply to cases in which a nontenure teacher is terminated when the financial condition of the school district requires a reduction in the number of teachers employed and the reason for the termination is to reduce the number of teachers employed.

History: En. Sec. 1, Ch. 324, L. 1973.

Title of Act

An act providing for notification of nontenure teachers regarding their election or termination for the following year.

1973

1975

75-6105.1. Notification of nontenure teacher re-election. (1) The trustees shall provide written notice to all nontenure teachers who have been re-elected by the fifteenth day of April. Any nontenure teacher who does not receive notice of re-election or termination shall be automatically re-elected for the ensuing school fiscal year. Any nontenure teacher who receives notification of his re-election for the ensuing school fiscal year shall provide the trustees with his written acceptance of the conditions of such re-election within twenty (20) days after the receipt of the notice of re-election. Failure to so notify the trustees within twenty (20) days may be considered nonacceptance of the tendered position. The provisions of this section shall not apply to cases in which a nontenure teacher is terminated when the financial condition of the school district requires a reduction in the number of teachers employed and the reason for the termination is to reduce the number of teachers employed.

(2) When the trustees notify a nontenure teacher of termination, the teacher may within ten (10) days after receipt of such notice make written request of the trustees for a statement in writing of the reasons for termination of employment. Within ten (10) days after receipt of the request the trustees shall furnish such statement to the teacher.

History: En. Sec. 1, Ch. 324, L. 1973; amd. Sec. 1, Ch. 87, L. 1975; amd. Sec. 1, Ch. 142, L. 1975.

Compiler's Notes

This section was amended twice in 1975, once by Ch. 87 and once by Ch. 142. Neither amendatory act mentioned or incorporated the changes made by the other. Since the amendments do not appear to conflict, the compiler has made a composite section embodying the changes made by both amendments.

Amendments

Chapter 87, Laws of 1975, substituted "fifteenth day of April" for "first day of April" at the end of the first sentence in subsection (1).

Chapter 142, Laws of 1975, inserted the subsection designation "(1)" and added subsection (2).

Effective Date

Section 2 of Ch. 87, Laws 1975 provided the act should be in effect from and after its passage and approval. Approved March 19, 1975.

75-6106. Teacher certification registration. Any person employed as teacher, principal, or district superintendent shall register his certificate ; the district shall register its emergency authorization of employment for teacher with the county superintendent of the county wherein he is employed in order to validate his employment status and permit payment nder his employment contract. If a teacher does not register his certificate ith the county superintendent within sixty (60) calendar days after e teacher begins to perform his services, he shall not be eligible to ceive any further compensation under his contract of employment until has registered his certificate. After the schools of a district have been en for sixty (60) calendar days in the current school fiscal year, the unty superintendent shall notify each district of the county of each icher who has registered his current valid certificate, and the district all not pay any teacher who has not registered his certificate until the unty superintendent does notify the district of such registration.

A teacher employed by a joint district shall register his certificate :h the county superintendent of the county in which he is teaching.

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EXHIBIT 1
3-8-91
SB 120

History: En.
L. 1971; amd.

Amendments
The 1977 ame

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Teacher's Right
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History: En. 75-6109
L. 1971; amd. Sec. 1,

Amendments
The 1977 amendment
cipal" after "teacher"

20-4-206. Notification of nontenure teacher reelection — acceptance — termination and statement of reason. (1) The trustees shall provide written notice by April 15 to all nontenure teachers who have been reelected. Any nontenure teacher who does not receive notice of reelection or termination shall be automatically reelected for the ensuing school fiscal year.

(2) Any nontenure teacher who receives notification of his reelection for the ensuing school fiscal year shall provide the trustees with his written acceptance of the conditions of such reelection within 20 days after the receipt of the notice of reelection. Failure to so notify the trustees within 20 days may be considered nonacceptance of the tendered position.

(3) When the trustees notify a nontenure teacher of termination, the teacher may within 10 days after receipt of such notice make written request of the trustees for a statement in writing of the reasons for termination of employment. Within 10 days after receipt of the request, the trustees shall furnish such statement to the teacher.

(4) The provisions of this section shall not apply to cases in which a nontenure teacher is terminated when the financial condition of the school district requires a reduction in the number of teachers employed and the reason for the termination is to reduce the number of teachers employed.

History: En. Sec. 1, Ch. 324, L. 1973; amd. Sec. 1, Ch. 87, L. 1975; amd. Sec. 1, Ch. 142, L. 1975; R.C.M. 1947, 75-6105.1.

20-4-207. Dismissal of teacher under contract. (1) The trustees of any district may dismiss a teacher before the expiration of his employment contract for immorality, unfitness, incompetence, or violation of the adopted policies of such trustees.

(2) Any teacher who has been dismissed may in writing within 10 days appeal such dismissal to the county superintendent. Following such appeal a hearing shall be held within 10 days. If the county superintendent, after a hearing, determines that the dismissal by the trustees was made without good cause, he shall order the trustees to reinstate such teacher and to compensate such teacher at his contract amount for the time lost during the pending of the appeal.

History: En. 75-6107 by Sec. 88, Ch. 5, L. 1971; amd. Sec. 1, Ch. 327, L. 1971; R.C.M. 1947, 75-6107.

20-4-208 through 20-4-210 reserved.

20-4-211. Definitions. (1) As used in 20-4-211 through 20-4-214, "American Indian studies" means instruction pertaining to the history, traditions, customs, values, beliefs, ethics, and contemporary affairs of American Indians, particularly Indian tribal groups in Montana.

(2) As used in 20-4-211 through 20-4-214, "instruction" means:

(a) a formal course of study offered by a unit of higher education developed with the advice and assistance of Indian people;

(b) in-service training developed by the superintendent of public instruction in cooperation with educators of Indian descent and made available to school districts; or

(c) in-service training provided by a local board of trustees, which is developed and conducted in cooperation with local Indian people.

History: En. Sec. 2, Ch. 464, L. 1973; R.C.M. 1947, 75-6130.

MSBA
MONTANA SCHOOL BOARDS ASSOCIATION

EXHIBIT #2
DATE 3-8-91
SB 120

One South Montana Ave.
Helena, Montana 59601
Telephone: 406/442-2180
FAX 406/442-2194
Robert L. Anderson, Executive Director

Testimony before the
House Education Committee

SB 120
Blue Copy

March 8, 1991

The Montana School Boards Association opposes SB 120 for the following reasons:

1. Providing a termination hearing for nontenured teachers does away with the probationary period of employment for teachers which the three nontenure years have always been considered.

2. Termination hearings are generally provided under due process of law to terminate property rights, like tenure. This bill will elevate nontenure to a similar status as tenure and other property rights because a termination hearing is authorized.

3. It will be difficult to distinguish between abuse of discretion and just cause at a county superintendent hearing, particularly given the subjective nature of teacher evaluation. Even though the initial burden of proof is on the teacher, that burden is easy to meet by just denying the reasons. The burden then shifts to the school district to prove the reasons. It will be easy to confuse the truthfulness of the reasons with the sufficiency of the reasons, or just cause, during the heat of a county superintendent hearing.

4. This bill will increase the costs for districts for legal fees incurred in these hearings. Very few teachers in this kind of situation will admit they are inadequate. The union also has the duty of fair representation of its members, and assists virtually all teachers wishing to appeal, regardless of merit. Combine these two and a large percent of nontenure terminations will end up in expensive appeals.

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SB 120

5. It is easy to say that all the administration must do is a good job of evaluating teachers. But this ignores the fact that the right to appeal exists regardless of how well teacher evaluations are done.

6. The bill implicitly assumes that many nontenured teachers are given false reasons for termination. We disagree. Trustees are locally elected officials who donate their time and effort to serve their community. Almost all of them do this honorably and to the best of their ability. We do not believe many false reasons are given.

7. We feel that the bill will detract from the professionalism of teaching because the result will be either the overturning of valid terminations, or districts avoiding termination of inadequate teachers because of the difficulty and cost. In either case, the number of teachers who are mediocre or not the best will increase.

Please oppose SB 120.

EXHIBIT #3
DATE 3-8-91
HB 120

TESTIMONY IN OPPOSITION TO SENATE BILL 120

A Bill for an Act entitled: "An Act to require that Trustees of a School District provide a nontenure teacher with a true statement of employment-related reasons upon termination; to provide a nontenure teacher with a hearing if there is reason to believe that trustees have abused their discretion; amending sections 20-3-210 and 20-4-206, MCA; and providing an immediate effective date.

OVERVIEW:

I am here today to give testimony in opposition to Senate Bill 120 because I am convinced that this Bill will have significant impact on the manpower, financial, and programmatic responsibilities of the local school districts within the State of Montana. Prior to appearing in today's proceeding to present this testimony, I have engaged in a significant amount of conversation with representatives of local school districts in the legislative and senate districts where I both reside and practice as a Director of Personnel and Labor Relations for Missoula School District One. A substantial majority of elected Board members and Superintendents who are charged with the mission of implementing the requirements mandated by the State Board of Education, the Office of Public Instruction, and the wishes of their constituency have a collective consensus that this Bill will severely inhibit local jurisdictions from obtaining the educational mission mandated by their constituencies including, but not limited to, the following areas.

AUTHORSHIP OF THE BILL:

It is important to examine the structural changes in the Bill presented by those legislators who submitted it to the Senate. Section 1 of the Bill speaks specifically to Section to 20-3-210, MCA, and amends that statute to include language which allows for a hearing under Controversy and Appeals in areas relating to the abuse of discretion by the Trustees of a District in the

termination of a nontenured teacher. The abuse of discretion language placed within the Controversy and Appeals portion of the law is given no limiting factors except those stated within Section 20-4-206 (3), MCA.

Section 2 of the proposed Bill amends 20-4-206, MCA, to provide a contingency taking into account the financial condition of the school district which may require a reduction in force; however, a close examination of the language in Subsection 2 of Section reveals that the word subsection has replaced the word section in the current language of 20-4-206, MCA. It is easy to see that the financial contingency language would now be tied only to the Subsection which deals with the requirement to provide notice by May 1 to all nontenured teachers who have been reelected, and only that Subsection may be waived under the financial condition of the proposed Bill. Sections 2 and 3 according to the way that this Bill was authored would not be subject to the financial contingency in this proposed piece of legislation.

PERFORMANCE VERSUS CONDUCT:

Under the proposed legislation the School District would be required to furnish to the teacher a true statement of the reasons for termination that states those qualities relating to job performance that are lacking and merit a refusal to enter into an employment contract with the teacher for the ensuing fiscal year.

It is a well known and accepted fact that there are three components that must be considered in the employment history of a non-tenured teacher. The first is professional development -- that means during the probationary period of three years established by previous legislators administrators who manage the public school systems work with the probationary teachers to develop a professional growth package that can consist of

inservice, one on one counseling, additional course work, and peer guidance. The second is performance in terms of instructional delivery. These are the expectations by the employer in terms of the delivery of the instructional message to the students assigned to that teacher and for probationary teachers a growth model is expected. One would hope and expect that a nontenured teacher would continue to grow throughout the probationary period, but that is dependant upon his/her ability and willingness to meet the expectations of his/her position.

The third aspect of employment history that must be considered is the conduct of the employee, that is whether or not he/she follows the work rules of the employer such as timeliness, personal conduct, and manageability.

This proposed piece of legislation speaks to performance and to judging the discretionary acts of a Board on the merits of its decision not to retain a probationary teacher. This piece of legislation is counter-productive and will result in demolishing the growth models for probationary teachers simply because to renew a marginal teacher after the first year of employment is to constructively build case law that can be used by the representatives of these probationary employees to argue the fact that they must have been meeting expectations since it was the decision of the Board of Trustees to renew them for the next year. Enlightened Boards have attempted to allow probationary teachers to grow and improve. They will now no longer be afforded that opportunity due to the threat of litigation especially for marginal renewals. The Supreme Court in its decision on Birgenheier vs. Yellowstone County School District No. 2 recognized that legislators in the past established a probationary period during which time the employer and the employee could proceed on a growth model. If that employee did not meet the expectations, the Board was allowed to terminate that teacher without the threat of

litigation. All we are asking you is to allow us to do what has already been established by the highest court in the State of Montana.

FISCAL IMPACT:

This proposed piece of legislation has been buffered somewhat in its presentation to our legislators by the fact that it contains language that states that the burden of proof rests with the teacher to show an abuse of discretion. What has been inferred from this language is that the time and expenditures which come with the burden of proof are shouldered by the teacher in presenting his/her case of a discretion claim. One would be naive to believe that any school district in the State of Montana could be summoned without completely preparing to defend its position. Interviewing witnesses and preparation of depositions would require a greater expenditure for litigative costs by the School District. This is money that would have to be taken from the general budget since in most cases even though the county attorney is the attorney of record for school districts, litigative costs are contracted to private attorneys at rates which vary from eighty to one hundred ten dollars per hour. This proposed legislation calls for force and effect upon passage and approval and would throw school districts into budgetary chaos since the budgets are limited to local districts and the expenditures within line items have little margin that can be used for litigation costs. Since no new revenue is slated for these districts, the redistribution of money to cover litigation over abuse of discretion allegations of probationary employees will result in fewer services reaching the youngsters within the school district. The beneficiary of the financial impact will be our students. This is certainly not a student Bill, this is a probationary employee Bill.

MANPOWER:

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The instructional and programmatic blueprint used by School Districts to provide an education to our students is steeped in the requirements dictated by the appropriate state agencies and the wishes of local School Districts to exceed those standards. The State Board of Education and the Office of Public Instruction a few years ago embarked upon an ambitious project, one with a mission to strive for excellence. Areas such as class size, utilization of specialists, and other items which require additional monies and teacher certification have been mandated by these agencies. In the face of fixed revenues, the only flexibility that school districts have to insure a goodness of fit between teacher certification and program requirements is in the ability to terminate nontenured teachers whose licensing will not fit the programmatic needs of the District in years to come. Enlightened administrators and Boards look to their manpower requirements, not in terms of the current fiscal year, but in a cross match between state mandates and requirements and the wishes of their local constituency to expand and improve their educational mission. This piece of legislation would require these local Boards to submit to a standard of review by an elected County Superintendent of Schools. What will develop across the State of Montana is a patchwork of case law none of which will be able to base line or define abuse of discretion as it applies to educational programs and the utilization of manpower. Eliminate the ability for Boards to terminate probationary employees which was a right provided to them by previous enlightened legislators and the State's highest court, and you effectively eliminate the possibility of Districts meeting their manpower needs with the highest caliber candidate they can recruit, select, and place into teaching positions.

CONCLUSION:

I believe that legislators in the past have passed legislation which deals with education when they felt that it was in the best interests

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of the beneficiary of that legislation -- namely the students. Montana's schools struggle to meet the mission given to them by the people of this State on very limited revenue and resources.

This piece of legislation is not a student bill, this piece of legislation is a probationary employee bill. It will result in a proliferation of conflict between local boards and teacher unions. The cost for litigation will have to be taken from general fund monies previously budgeted and reserved for student services.

Previous legislators chose to establish a three year probationary employment period within a profession that provides a vital service to Montana's youngsters. They deemed that this was a reasonable period of time for a Board to make a decision as to whether a newly recruited and placed teacher could deliver the expectations required of him/her. The Courts have recognized and upheld the local Board's right to make that decision within the three year period.

We recognize that there will be aberrant boards just like there will aberrant legislators and school administrators. They, however, represent a insignificant minority of the school boards who represent their constituency with integrity. If you pass this Bill you effectively remove the three year probationary period so vital to determining the goodness of fit between a teacher and the local District. You will reduce the flexibility for reassignment of manpower so badly needed in the face of fixed revenue and additional demands by your state agency for additional services. I am disappointed that the senators that passed this Bill did not expend a greater amount of time in conversation with all vested parties including the parents, administrators, and elected Board members within their Districts. I plead with you that before a decision is made on this to call home to talk with all vested parties since this is a proposed piece of legislation that I believe will have

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DATE 3-8-91
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significant impact on the parents and students of the school districts within your jurisdiction. Thank you for your attention. Best wishes to you during this tough legislative year.

Don K. Klepper, Ph.D.
Director of Personnel/Labor Relations
Missoula School District One

EXHIBIT # 4
DATE 3-8-91
HB 120

FLORENCE CARLTON SCHOOL

ERNEST WILLIAM JEAN
ERINTENDENT
-273-6751

ERALD MCVAY
M PRINCIPAL
273-6741

ARIE PHILLIPS
HS PRINCIPAL
273-6501

02 OLD HWY 93
LORENCE, MT 59833
ensville Phone No.
-3902

March 8, 1991

MEMO

TO: House Education Committee

FROM: Dr. Ernest William Jean, Supt. EWJ

I would like to limit my opposition to SB120 to four areas.

First, Black's Law Dictionary 5th Edition defines "Just cause" as a cause outside legal cause, which must be based on reasonable grounds, and there must be a fair and honest cause or reason, regulated by good faith.."such reasons as will suffice in law to justify the action taken."

SB120 extends to the probationary teachers "just cause" provision in non-renewal actions. I have heard the lawyer for the Office of Public Instruction attempt to answer a question about the difference between the provisions of this bill and a "just cause" provision, and no rational English language answer was provided. A "legalese" answer immediately causes a practitioner to become wary because of all of the pitfalls inherent within. I believe that the question of different would be like a distinction with ABSOLUTELY no difference.

Secondly, I hear proponents argue the "burden of proof is with the teacher." As an interscholastic debater, I can tell you that the "burden of proof" is a purely academic term--for those who teach debate or law. There is NO such thing in practice. In a battle, these distinctions are lost quickly (like once the charge has been made).

Thirdly, I have heard proponents argue that this would not increase the challenge to non-renewal. The best way to answer that ridiculous argument is to look at the number of challenges to the <u>current</u> law--one that has been so well defined by case law and no less than two (2) Supreme Court decisions.

The proponents further argue, "get the standard, make sure the teacher knows, evaluate their performance and there will not be a challenge." Let's look at this case scenario:

> A teacher was hired as a one (1) year replacement for a teacher on leave. This teacher was informed in writing, for which the teacher signed a

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DATE 3-8-91
SB 120

statement concerning the one (1) year contract, and also signed a contract that stated that it was a terminal contract. At the end of the year, this teacher challenged non-renewal.

This real life example is under the more restrictive current law. Don't you think it would be easier to challenge under the provisions of this proposed change?

I believe that challenge will be the rule because there is "nothing" to lose, there would be no "gray area" anymore--even financial reasons are challengeable.

Lastly, isn't this bill really an attempt to legislate morality? Far and away, Boards do act responsibly. For this to work, equal legislation should be written to mandate ethical behavior in all teachers, that they all are prepared to teach from day one, that they all possess experience that a few years of practice provides. That is precisely the reason that a probationary period for teachers was established. Certainly, teaching is a craft, but it is also an art. For some, it takes time to fully develop.

This bill is simply a bad idea. It is reactive to recent Supreme Court decisions that state there is a need for probationary status and I urge you to solidly place a DO NOT PASS recommendation on this bill.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

EDUCATION & CULTURAL RESOURCES **COMMITTEE** **BILL NO.** SB 120

DATE 3-8-91 **SPONSOR(S)** Sen. B. Brown

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Sally Macmillan SD 49/HD 33 1925 15th Avenue S. #2 Great Falls MT 59405	GFEA/Montana Education Assoc	X	
Judith Walker Bigg, MT 3295 Granger Ave. E. #20 59102	MEA	X	
Cheri Dale 7539 Spear Dr Shepherd MT 59079	MEA	X	
Diane Fladmo 418 Cooke, Glendive, MT		X	
Kathy Lovaas 1300 Second Avenue Bldg 59105	BEA/MEA	X	
Lorna Frazier	S.A.M.		X
Don Remy GFEA	MEA/GFEA	X	
Don Klepper Musselshell Sch Dist #1	Musselshell Elem Dist #1		X
Ernie Jean Florence-Carlton School	Florence-Carlton		X
Eileen Sheehy	MEA	X	
JENNA PIKE	self	✓	
Jan Rushkiff	MEA	X	
Hallie Olson	MEA	X	
Arlene Stathe	MEA	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Bob Anderson MSBA X

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

202

EDUCATION & CULTURAL RESOURCES COMMITTEE BILL NO. SB 120

DATE 3-8-91 SPONSOR(S) Blown

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Phil Campbell	MEA	X	
Jack Copps	OPI	X	
Margo Veerkamp	Missoula Elem.	X	
Josh Malay	M.F.T.	X	
Al Olsen	MEA	X	
Kathy Dunn	MEA	X	
Chip Erdmann	MT Rural Ed Assoc		X
Shirley Hanson-Haire	MEA	X	
Julie Woodhouse	MEA - Polson	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Opponents' Testimony: None

Questions From Committee Members:

REP. STANG asked **Pat Melby** if this concept uses the guaranteed tax base to determine the split of the money. **Mr. Melby** said no, the guaranteed tax base will not be used until the data is collected and reviewed.

REP. SIMPKINS asked **Wayne Buchanan** if this correlates with the time table the Board of Public Education established to finally equalize funding for schools. **Mr. Buchanan** answered he didn't know if the Board has a specific time table to address the issue.

Closing by Sponsor:

SEN. VAN VALKENBURG thanked the committee and urged a favorable vote on the bill.

EXECUTIVE ACTION ON SB 120

Motion: **REP. MCCULLOCH** moved SB 120 **BE CONCURRED IN.**

Discussion: **REP. SIMPKINS** said he opposed the bill because it establishes another string of appeals that could result in a great deal of money for school districts.

REP. FORRESTER said Sen. Bob Brown received the Montana School Boards Association's "Friend of Education Award" and would not sponsor legislation that would hurt education.

Vote: Motion **CARRIED** 14 to 6. **EXHIBIT 14**

ADJOURNMENT

Adjournment: 6.00 p.m.

TED SCHYE, Chair

DIANNE MCKITTRICK, Secretary

TS/dMcK

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL DATE 3-12-91

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY			✓
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. FLOYD "BOB" GERVAIS	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY			✓
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

CS05ED.MAN

Janine McKittrick

HOUSE STANDING COMMITTEE REPORT

March 14, 1991

Mr. Speaker: We, the committee on Education and Cultural Resources report that Senate Bill 120 (third reading copy -- blue) be concurred in .

Signed: _____
Ted Schye, Chairman

Carried by: Rep. _____